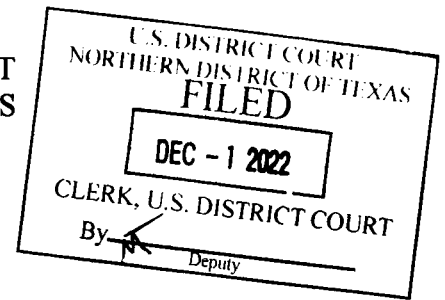


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



TOBY MACK DEVENPORT,

Petitioner,

v.

Director, TDCJ-CID,

Respondent.

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2:21-CV-225-Z-BR

**ORDER ADOPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
AND
DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Before the Court are the Findings, Conclusions, and Recommendation (“FCR”) of the United States Magistrate Judge. *See* ECF No. 17. No objections to the FCR have been filed. After making an independent review of the pleadings, files, and records in this case, the Court concludes the FCR is correct. The Court **ADOPTS** the FCR and **DISMISSES** the Petition for a Writ of Habeas Corpus **WITH PREJUDICE** as time barred.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because Petitioner has failed to make “a substantial showing of the denial of a constitutional right.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011). The Court **ADOPTS** and incorporates by reference the FCR in support of the Court’s finding that Petitioner has failed to show that reasonable jurists would find: (1) this Court’s “assessment of the constitutional claims debatable or wrong”; or (2) “it debatable whether the

petition states a valid claim of the denial of a constitutional right” and “debatable whether [this Court] was correct in its procedural ruling.” *Slack*, 529 U.S. at 484.

SO ORDERED.

December 1, 2022

A handwritten signature in black ink, appearing to read 'M. J. Kacsmarik', written over a horizontal line.

MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE